

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

Crl.MC.No. 2162 of 2007()

CRMP.66/2007 of III ADDL.SESIONS COURT, ERNAKULAM
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PETITIONER: ACCUSED:

1. J.GOPAL, AGED 58 YEARS, S/O.S.JAYARAMAN,
"SURAG", 18/246, G.K.PILLAI ROAD, PERUMBAVOOR,
KERALA-68542.
2. RADHA GOPAL, AGED 56 YEARS,
W/O.J.GOPAL, "SURAG", 18/246, G.K.PILLAI ROAD,
PERUMBAVOOR, KERALA-68542.

BY ADV. SRI.P.S.DIVAKARAN
SRI.CHRISTUDAS STEPHENSON
SMT.K.R.KRISHNAKUMARI
SMT.C.B.ANUROOPA
SMT.PREETHI K.PURUSHOTHAMAN

RESPONDENTS: COMPLAINANT:

THE SUPERINTENDENT OF POLICE,
SPE/CBI, KOCHI.

BY ADV. SRI.S.SREEKUMAR, SC FOR CBI

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 25/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J
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Crl.M.C. No.2162 Of 2007
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Dated this the 25th day of July, 2007

ORDER

The petitioners are spouses. They are accused in crimes registered under the provisions of the Prevention of Corruption Act. Against the 1st petitioner there is yet another crime which also is registered under the P.C.Act. In one crime the Investigation is complete. Final report has already been filed and cognizance has been taken of the offence allegedly committed by the 1st petitioner. In the second crime, investigation is in progress. Both petitioners have not been arrested, in that crime so far. The petitioners face allegation in that crime relating to disproportionate assets acquired by the 1st petitioner, which acquisition the 2nd accused had allegedly abetted. It is the allegation of the prosecution that the 1st petitioner was an employee of the HOCL, a government company and during the period of his employment under the said company, he had amassed disproportionate assets. The crime in which investigation is completed and final report is filed relates to crimes committed by the 1st petitioner as employee of the said Government company. The trial in that case has not commenced yet. During the

investigation into the crime relating to offences committed by the 1st petitioner in respect of the company, a raid was conducted and it is then that documents showing the acquisition of disproportionate assets were revealed to the investigator. In the course of such raid the officials had seized several deposit receipts as also passports of the petitioners. It is at that stage that petitioners went before the Special Judge and made two prayers. The first prayer was to get back the interest acquired in deposits, the receipts of which were seized by the investigators.

2. I need not detain myself with any further discussion on that aspect, as at this moment there is no prayer for release of such interest accrued in such deposits. The prayer cannot obviously lie as the deposits if tainted, the interest thereon cannot also be paid to the petitioners certainly.

3. The 2nd prayer which we are now concerned with is the prayer for release of the passports. It is relevant to note that passports are seized only as documents in the course of the raid. It was not surrendered before the court as condition for grant of bail. As stated earlier, the petitioners are not on bail in the disproportionate assets case. They are not on bail on condition that

passport must be surrendered.

4. The prayer to release the passports was dismissed by the learned Special Judge. The learned Special Judge obviously entertained the suspicion which is now aired by the prosecutor also, that the petitioners, an old couple may abscond and make themselves scarce and unavailable for the trial. Both their children are employed abroad. In these circumstances, the learned Special Judge took the stand that it is not proper to release the passports to the petitioners.

5. The learned counsel for the petitioners submits that a grand child of theirs is seriously ill and the petitioners want to proceed to the U.S. to see the ailing child. Except the assertions made in the petitions, there is no tangible data to reveal to the Court the nature of the illness or the need of the petitioners to go abroad. It is also relevant to note that, it has not been revealed to the Court the period during which the petitioners have to be away from India.

6. Sufficient reasons have not been shown now to justify the prayer for release of the passports. However, I am satisfied that the petitioners can be given the option to make a fresh application before the learned Special Judge for release of the passports. In

such application all the relevant details as to their need for leaving India, the probable time of departure shall also be mentioned. The learned Special Judge must consider such application, if any filed, on merits, in accordance with law and expeditiously. Needless to say the prosecutor must be given opportunity to raise their objections, if any, against the request for release of the passport.

7. This Crl.M.C. is accordingly dismissed with the above observation.

(R.BASANT, JUDGE)

sj